

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5190 of 1998

with

SPECIAL CIVIL APPLICATION No 5379 of 1998

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR.K.G.BALAKRISHNAN

and

MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5 : No

IRISH PRESBYTERIAN MISSION TRUST THRO' MANAGER

Versus

DY COLLECTOR

Appearance:

1. Special Civil Application No. 5190 of 1998

MR MC BHATT for Petitioner

Mr.D.P. Joshi, AGP, for Respondent No. 1, 2, 3

2. Special Civil Application No 5379 of 1998

MR MC BHATT for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

Mr.D.P.Joshi, AGP, for Respondent No. 2, 3

CORAM : CHIEF JUSTICE MR.K.G.BALAKRISHNAN and
MR.JUSTICE M.H.KADRI

Date of decision: 08/09/98

COMMON ORAL JUDGMENT: (Per: K.G.Balakrishnan, C.J.)

Rule. Service of Rule is waived by learned
Assistant Government Pleader, Mr.D.P. Joshi, for the

respondents. At the request of the learned counsels for the respective parties, rule is taken up for hearing today.

Since the issues involved in both these Special Civil Applications are common, the applications are disposed of by this common judgment.

The dispute in these proceedings relates to admission to Primary Teachers Course (PTC). These two petitioners claim to be Minority Institutions. As per the judgment and order dated April 22, 1998 of the Division Bench of this Court rendered in Special Civil Application No.3226 of 1984, and allied matters, the petitioners are entitled to make admission to the PTC on the basis of the following directions given by this Court in the aforesaid judgment:-

"The law on this point, as on today, is governed by the decision in AIR 1992 SC 1630. As per the decision, the petitioners herein are entitled to fill up 50% seats by students belonging to the community to which institution belongs, on the basis of merit. Remaining 50% seats should be made available to students belonging to other communities, on the basis of merit and depending on the orders of the Government regarding reservation of seats belonging to socially and educationally backward communities and scheduled castes and scheduled tribes."

It is contended by the petitioners that 50% of seats which are to be made available to other communities are to be filled up by the management of the petitioners-colleges themselves. The Government, on the other hand, contended that there is a centralized scheme for admission to PTC; an advertisement had already been issued calling upon the students to make applications; large number applications have been received; those applications are being processed; and 50% of seats are to be filled up by the students selected under the Centralized Scheme of Admission.

We heard learned counsel Mr. M.C. Bhatt for the petitioners and Mr. D.P. Joshi, learned Assistant Government Pleader, for the respondents.

The learned Assistant Government Pleader contended that the College has no right to make admission to the entire seats for PTC, and, as far as 50% seats are concerned, they have to follow the principles of reservation and the same should be done on merits and all these norms could only be followed if the Centralized Scheme of Admission is followed. We are not inclined to

accept this contention for the simple reason that, in the judgment and order dated April 22, 1998 of the Division Bench of this Court rendered in Special Civil Application No.3226 of 1984, and allied matters, it is specifically held that 50% seats should be made available to students belonging to other communities, on the basis of merit and depending on the orders of the Government regarding reservation of seats belonging to socially and educationally backward communities and scheduled castes and scheduled tribes, and admission to these seats is to be made by the College itself. It is also pertinent to note that in the advertisement issued by the Director of Primary Education, these two petitioners-colleges have been specifically excluded, and it is clear that the Centralized Scheme of Admission does not relate to these two petitioners-colleges.

In the result, it is directed that the petitioners in these two Special Civil Applications may fill up 50% seats by students belonging to the community to which the Institution belongs, and the remaining 50% seats are to be filled up by the petitioner-College itself, as per the directions given by the Division Bench of this Court in the judgment and order dated April 22, 1998 rendered in Special Civil Application No.3226 of 1984, and allied matters. As it is apprehended by the respondents as to whether the norms would be strictly followed, it is directed that the petitioners shall submit the final select list of 50% general seats to the Director of Primary Education, and, if it is found that the petitioners have not followed the norms prescribed by the Division Bench of this Court in the judgment and order dated April 22, 1998 rendered in Special Civil Application No.3226 of 1984, and allied matters, the authorities may take appropriate action against the petitioners.

With these observations, both these Special Civil Applications are disposed of. Rule is made absolute to the extent indicated above. There shall be no order as to costs.

(swamy)